

Bangladesh War Trials: The Need to Stop the Culture of Impunity and the Rise of Islamic Fundamentalism

By Siegfried O. Wolf, Nov 25, 2015

Introduction

After **Bangladesh's Supreme Court rejected** final appeals against death sentences on November 22, two oppositional figures got hanged. **Ali Ahsan Mohammad Mujahid and Salahuddin Quader Chowdhury** were accused for atrocities committed during the 1971 war of independence. Mr. Mujahid (age 67) was secretary general and **official number two** of the Jamaat-e-Islami (JeI) party and served as Member of Parliament as well as social welfare minister in the BNP-led government from 2001-2006. He was **found guilty in July 2013** on five charges including torture and the murders of intellectuals and minority Hindus. Mujahid was a leader of religious radicalized students in 1971 (Islami Chhatra Sangha, the student wing of JeI) which supported the unity of Pakistan and **commanded Al Badr**, an auxiliary force of the Pakistani army, during Bangladesh's war of independence.

While Salahuddin Quader Chowdhury (Age 66), also **known as Saqa**, was one of the most **senior figures** in the Bangladesh Nationalist Party (BNP) who served six terms as legislator. He was a very close aide of current BNP leader and former Prime Minister Khaleda Zia's (BNP). Chowdhury was **convicted in October 2013** for nine out of 23 charges including genocide, arson and persecuting of people on religious and political grounds, abduction and torture during the war. **He and his father** (Fazlul Quader Chowdhury), Speaker of the National Assembly of undivided Pakistan in 1965, rejected vigorously the break-up of Bangladesh from Pakistan.

In order to maintain public safety and law and order, the Government of Bangladesh (GoB) **tightened security** by deploying extra forces in Dhaka and other parts of the country. **Similar judgments** in the past triggered large scale street accompanied with massive violence that **left around 200 dead**, mainly organised by Jamaat and BNP activists. Until today, a total of **18 people** have been convicted, but only two had been sent to the gallows before the hanging of Muhajid and Chowdhury. **Two Jamaat leaders** got executed before, **Muhammad Kamaruzzaman** in April 2015 and **Abdul Kader Mullah** in December 2013. Actually Mr. Muhajid is the first former minister while Chowdhury is the first BNP leader in the country's

troubled history who had to face capital punishment. The enforcement of the death sentences evoked not only domestic but also international criticism questioning the fairness of the trials.

Furthermore, taking into account the high level of political tensions and the rise of Islamic fundamentalism in Bangladesh, one must also be aware about potential impacts on the polarisation of state and society and how far international acting terror groups like Islamic State can instrumentalize the on-going struggle over war crime justice. It will be argued that it is crucial for Bangladesh to end the culture of impunity and to bring the 1971 war criminals finally to justice. Otherwise, the South Asian country will experience never peace and stability but the **further grow of Islamic fundamentalism and related militancy**.

Bangladesh's Troubled Political History

Political development and democratization in Bangladesh have been largely determined by the way in which the country came into existence- a result of two traumatic events. The first one was the partition of British India in 1947 as a consequence of the transfer of power from the colonial ruler to the newly created states of India and Pakistan, as the latter was caused by the geographical separation of Western and Eastern part. The second one was the War of Liberation, in which East-Pakistan **successfully fought against the West Pakistani armed forces for secession. Soon after independence, Bangladesh underwent a variety of regime changes**, from a multi-party democracy to a one-party system (BAKSAL/Bangladesh Krishak Sramik Awami League). The **growing authoritarianism evolved into a praetorian polity** with periods of direct and indirect military rule and then reverted several times to a democratic form of government. At last, after the downfall of General Hussain Muhammad Ershad in 1990 and the subsequent 1991 elections, Bangladesh transformed from the primarily authoritarian presidential system back to its original democratic parliamentary system.

In this context, one can state that the years 1990 and 1991, which saw one of the largest political movements since Bangladesh's independence, are essential elements of the most significant political event in the country's history. It initiated a process of democratic stabilization and consolidation that is still continuing today. However, this transition process has been challenged by various political and socioeconomic factors and **historical legacies** on several occasions. Of which, the most notable is the deeply entrenched political polarization

of state and society. Throughout the country's history, polarisation has hampered political institution building, which in turn, hindered the democratization process. This raises the challenging question of how such tremendous antagonism and hostility could have developed in a society that is generally known for its high degree of ethnic, cultural and religious homogeneity, and which shares a collective memory of socioeconomic and political suppression, genocide, war atrocities and other related crimes. The Bangladesh Liberation War created a socio-political cleavage within the Bengali society. Wherein, rather than bringing the Bengali people together, the societal divide was only reinforced after the end of the war.

The process of **post-war factionalism** finds its first and most momentous expression in the conflict between the 'Freedom Fighters' and the 'Returnees'; a confrontation between those who were directly involved in combating the Pakistan Armed Forces and those who remained in West-Pakistan for whatever reason and returned to the East after Bangladesh's successful secession. The deep conflict between these two groups derived from the fact that the freedom fighters received more favourable socio-economic treatments, benefits and privileges from the newly established independent government because of their active participation in the war. This confrontation peaked with the state's portrayal of the freedom fighters as 'war heroes' and the returnees as 'collaborators'. This is an equation which not only casted a dark shadow over the **build-up of the Bangladesh Armed Forces** but also created disturbances within the country's bureaucracy and other political institutions, in which returnees and freedom fighters struggled for influence and control over resources.

This internal conflict still persists and gets reflected in an unrestricted struggle between the two leading political parties, Awami League (AL) and Bangladesh National Party (BNP),- splitting the country in two antagonistic camps. Keeping this in mind, it is important to note that this schism was further enforced by the culture of impunity, the lack of justice for victims of the liberation war, and the rise of Islamic fundamentalism. Therefore, in order to adequately understand today's political polarization and the significance of the war trials one needs to realize that the existing seed of disharmony is a result of the British colonial rule and the West-Pakistani government, its security forces and East-Pakistani collaborators.

The War Trials and Fairness of Justice

Being set-up in 2009, the **International Crime Tribunals** (ICTs) which are currently being conducted in Bangladesh, are attempts to expose genocide, preserve human rights and guarantee justice for the victims of the Bangladesh War of Liberation. These tribunals were established for the **express purpose** of exposing and prosecuting those who organised the systematic killing and rape of millions of Bangladeshis during the 1971 War of Liberation.

In this context, the ICTs investigate and prosecute suspects for the genocide and crimes against humanity committed in 1971 by the Pakistani Army and their local collaborators, Razakars, Al-Badr and Al-Shams. Latter groups functioned as **auxiliary forces** which helped the Pakistani military to identify and kill pro-independence Bengali activists and religious minorities, especially **Hindus**. Under the leadership of Salahuddin Quader Chowdhury, Al-Badr was also accused of forcefully **converting a number of Hindus to Islam**. Some human rights organisations as well as the opposition BNP and Islamist parties question the fairness of the trials.

Here the **critics of the trials using following arguments** posit: (1) the aim of the Court is political, since those who stand accused are members of the political opposition. As such, the trials and subsequent executions are portrayed as **‘political motivated killings’**; (2) the number of victims, the motivations for the genocide, the nature of the conflict, although previously well established and overwhelmingly accepted by the international community, are being portrayed as major sources of controversy. In other word, to split the country and to discredit the opposition in general and Islamist parties in particular; (3) the number of years passed does not justify the continuation of the procedures; and (4) the fact that Bangladesh still uses capital punishment discredits the process in its entirety. Although the trials are being discredited by the BNP and Jamaat internally, as well as externally, the procedures **have been supported** by many high profile international observers and stakeholders, even when they make punctual criticisms. One can state that the foundation of these **proceedings is sound and stable** and they should continue until justice is served for the people of Bangladesh.

War Trials and the Political Polarization of Bangladesh

The executions on last Sunday sparked different reaction. Awami League supported the death sentences by celebrating street parties. In contrast, the opposition spearheaded by BNP and JeI activists called for a nationwide general strike. This phenomenon does not come by surprise if one recalls that already the formation of ICTs created **strong reaction** among the opposition camp and international community. The second largest party in the opposition camp, JeI is directly linked with war crimes during the Liberation War in 1971. Top leaders of JeI have been charged with war crimes over the past four decades. The triggering incident was the verdict against a central leader of JeI, **Maulana Delwar Hossain Sayedee**.

Following the verdict in February 2013, the Party **unleashed massive violence** throughout the country especially in their strongholds – mainly border districts. In this context it is interesting to note, although street violence might indicate a strong opposition to the ICT trials, the opposite is the case. An **opinion poll** from April 2013 conducted by the Nielsen Corporation shows that 86 per cent of Bangladeshis are in favour of the trials and want them to proceed. In addition, annual polls indicate that the genocide trials rank among the top three positive steps that the government has taken. Furthermore, the proceedings of the trials have reinforced civil resistance against perpetrators of crimes committed against humanity.

On February 5, 2013, the so called **Shahbag protest movement** was born to demand justice, often led and organised by neglected sections of society such as women and minorities. In sum, one can argue that the latest execution will **not further polarize the country** but it will entrench the existing cleavages and getting instrumentalized by the BNP opposition and Islamic fundamentalists to undermine the current government, democratic consolidation, and the liberal-secular foundation of Bangladesh.

Increasing Leverage if International Jihadist Organizations

The **political polarization in Bangladesh goes hand in hand with the systematic, persistent Islamisation of the country**. The breeding ground for this process was prepared by the country's military rulers, General Ziaur Rahman (1975-1981) and General H.M. Ershad (1982-1990). During both autocratic governments, far reaching constitutional amendments were introduced which undermined the institutional bulwark, i.e. the principles

of secularism and democracy, against a potential Islamist takeover. More concretely, Ziaur and Ershad diluted the secular principles in the constitution in order to gain legitimacy by playing the religious card. They were undoubtedly inspired by their Pakistani peer, General Zia-ul Haq (1977-1988), under whose dictatorial regime Pakistan descended into a marsh of Islamic fundamentalism.

By **anchoring Islam in the constitution** and putting religion at the centre of the political discourse, Bangladesh was effectively transformed into an Islamic state. As a result, Islamist parties have been able to incrementally appropriate **room in the political arena**, despite the fact that they did not enjoy much general public support. It is interesting to mention, that in this direction Pakistan serves as a crucial point of reference. For the fact that Islamist parties do not get many votes, and percentage-wise it does not automatically imply that they are marginalised when it comes to exercising political influence and access to state resources. Here, aggressive political behaviour combined with extra-judicial measures (e.g. black mailing, target killings, major terrorist activities) are used to compensate for the lack of electoral support. The high level of Islamist penetration of state and society was further enhanced during the **Bangladesh Nationalist Party (BNP) governments** (1991–1996, 2001–2006) of Begum Khaleda Zia. Not only were using state resources to promote their ‘anti-secular revolution’ but also to push the entrenchment of Islamic fundamentalist elements deeply into the political-administrative structure of the country.

Today, Islamisation is not a silent process anymore as it is a loud, aggressive and has reached the centre of power politics in Dhaka. Such an environment will be most favourable for international terrorist groups like Islamic State (IS) to take root in Bangladesh. They will take up the course of the persecution of war criminals associated with Bangladesh’s Islamist parties, describing it as ‘crusade against Muslims’ supported by hostile, anti-Islamic western states- have to be rejected. Latter one serves as rationale and justification to conduct further militant activities to disturb public order and to win over new recruits.

However, today there are sever attempts by the Awami League government, especially since Jihadists have directly threaten Prime Minister Ms. Sheikh Hasina, to take on the task of dealing with the growing Islamist challenge. The ban on some Islamist terror outfits as well as the conducting the war trials must be seen in this light too. But more has to be done in order to avoid that Bangladesh drifts more into the global Jihadist movement. It will be crucial to stop the policy of public denial of the existence of international terror groups in Bangladesh and

follow a comprehensive counterterrorism approach including the consequent search for justice for victims of religious fanatics.

The Significance of the War Trials for Peace and Stability in Bangladesh

It is important to remember why these tribunals are so necessary. Basically, there are two major reasons: First, it determines the collective memory of the Bangladesh people, which is leading to a deep polarization of Bangladesh's society and also the state. As such, the repercussions are hampering the democratic consolidation as well as the political-administrative structure since the country came in existence. Of which, the latter one determines the second reason for the importance of the war trials as there is a need to finally end the culture of impunity in Bangladesh.

During the liberation struggle, an appalling loss of life resulted because of a **genocide** perpetrated by the occupying Pakistani military forces, which were aided by local collaborators. Armed military crack downs such as the '**Operation Searchlight**' were carried out to suppress the Bangladeshi national independent movement and eliminate all political and military opposition. These operations resulted in **systematically killing** of approximately three million Bengalis. The relevance of combating **impunity** in international human-rights jurisprudence has been recognized and promoted on a global scale. Unfortunately, Bangladesh has been and still is one of the world's **worst examples of impunity**. Responsibilities from the main perpetrators of the genocide, Pakistani military personnel, were the first to be exempted from prosecution in a political deal that allowed Bangladeshi hostages in Pakistan to be exchanged with them. The local political force that internally organised most of the genocide, survived as a legal, political party (JeI) running in elections until Bangladesh's High Courts Court barred them from partaking in the electoral race in 2013.

In sum, the perpetrators of violence of the past are once again distorting **civic peace in Bangladesh today**. Most of them, still maintain or establish new links with Pakistan based terror groups as well as international Jihadi organisations such as the Islamic State and Al Qaeda. Hence, without bringing them to justice, a solution towards peace and stability cannot be found.

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Originally published on:

<https://www.indrastra.com/2015/11/FEATURED-Bangladesh-War-Trials-Need-to-Stop-Cultural-Impunity-and-Rise-of-Islamic-Fundamentalism-0475.html>